

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**  
***Bid Protest***

PlanetSpace Inc.,	)	
	)	
Plaintiff,	)	
	)	No. 09-476C
	)	Judge Block
v.	)	
	)	
United States of America,	)	
	)	
Defendant,	)	
	)	
Space Exploration Technologies	)	
Corporation and Orbital Sciences	)	
Corporation,	)	
	)	
Defendant-Intervenors	)	
	)	

**[Proposed] Order**

Before the Court is the Plaintiff's Motion for Judgment on the Administrative Record and for Permanent Injunctive Relief. Having considered the Motion, the supporting memorandum and declarations, and all responses and replies subsequently filed, the Motion is hereby **GRANTED**, and it is hereby **ORDERED** that judgment is entered in favor of Plaintiff and a permanent injunction shall issue. It is

**FURTHER ORDERED** that the case is remanded to the National Aeronautics and Space Administration for reprourement of the services solicited in RFP NNJ08ZBG001R. The Agency must take the following specific actions during the reprourement:

1. Promptly refer PlanetSpace to the Small Business Administration for a binding determination of responsibility;
2. Conduct a technical versus price trade-off as prescribed in RFP NNJ08ZBG001R;
3. Consider all elements of the RFP evaluation criteria consistent with law and regulation, and only those criteria, and provide clear documentation of its consideration;

4. Evaluate all bidders' past performance (including subcontractors and bidders' key personnel), consistent with law and regulation and provide clear documentation of its consideration;
5. NASA shall eliminate Orbital Sciences Corporation's bid proposal from consideration absent an explicit written determination by the Director of the Office of Science and Technology Policy, in consultation with the Assistant to the President for National Security Affairs, that one of the following conditions is met: (1) Orbital's proposed launch vehicle is not a foreign manufactured launch vehicle in its current configuration, or (2) an exemption to the U.S. Space Transportation Policy should be made;
6. NASA shall evaluate all strengths and weaknesses and provide a rational basis for determining that any such strength or weakness is a discriminator for or against selection, consistent with law and regulation and the requirements of the RFP.
7. In conducting the reprocurement, the NASA should consider awarding a third contract to PlanetSpace.

It is **FURTHER ORDERED** that the NASA begin the reprocurement process immediately, and complete it within 60 days of this Order, absent good cause, or a resolution of this matter agreed to by NASA and PlanetSpace.

**SO ORDERED**

---

Lawrence J. Block  
Judge